



***Town of Tyngsborough***  
***Planning Board***  
25 Bryants Lane,  
Tyngsborough, Massachusetts 01879-1003  
Office: (978) 649-2300 ext. 115

MINUTES  
November 20, 2014  
**APPROVED**

Attachments:

1. Meeting Agenda
2. Andover Consultants response for Ava Lane – 11/12/14
3. David E. Ross Associates review for Ava Lane – 11/19/14
4. Tyngsborough Fire Department letter regarding Ava Lane – 11/20/14
5. Tyngsborough Assessor Department letter regarding Ava Lane – 11/19/14
6. Tyngsborough Tax Collector letter regarding Ava Lane – 11/18/14
7. Tyngsborough Conservation Director email regarding Ava Lane – 11/20/14
8. Whitman & Bingham request for continuance letter for 347 Middlesex Rd. – 11/20/14
9. Connell Construction request for continuance letter for Heritage Hill Subdivision – 11/18/14

Members Present: Steve Nocco, Chairman  
Caryn DeCarteret  
Steve O'Neill  
Kimberly O'Brien  
Jesse Johnson, David E. Ross Associates

Members Absent: Tom Delmore

**7:15pm -** Meeting called to order by Chairman Steve Nocco

**7:17pm** **37 Willowdale Rd., a.k.a. Giguere Rd. (M22, P1, L0)** – Southern End Realty, applicant, request for a Special Permit for an Open Space Residential Development under the provisions of Section 4-14.00 of the Tyngsborough Zoning By-Laws for the development of a 12.8 acre parcel of land for a four lot residential open space subdivision. Continued from 11/6/14.

**37 Willowdale Rd., a.k.a. Giguere Rd. (M22, P1, L0)** – Southern End Realty, applicant, request for an approval of a Definitive Subdivision Plan under the provisions of the Tyngsborough Subdivision Rules & Regulations for a four lot open space residential development to be known as Ava Lane. Continued from 11/6/14.

Applicant Frank Gorman, Atty. Peter Nicosia, and engineer Jim Fairweather appeared before the Board. Atty. Nicosia updated the Board on the revisions on the plans as well as a proposed Restrictive Covenant to be attached to the open space parcels. The revised plans included snow storage easements, and details on sloped granite curbing and fencing. In addition, a letter from the Tyngsborough Fire Dept. was submitted that confirms that this 4 lot subdivision does not require a Cistern.

J. Johnson reviewed the latest revisions and reported that there are still some issues for the Board to consider before making a decision. These include Open Space Residential Development Special Permit regulations which includes establishing a Homeowner's Association and Restrictive Covenants. In addition, the language in the proposed Operation & Maintenance manual for drainage detention basins and infrastructure should clarify the homeowner's responsibilities for maintenance and reporting. The Board added that the Building Commissioner noted a couple of issues with regards to accessory structures on the open space parcels, Right to Farm by-law, dumping yard debris, and fencing. Atty. Nicosia indicated that all of these issues will be appropriately addressed to the Board's satisfaction prior to a final decision.

The Board had major concerns with how the open space parcels would be assessed and taxed. Both the Town Assessor, and Tax Collector issued comments that recommended that the open space be incorporated into the individual lots which would ensure proper assessment and tax collection. This recommendation was echoed by the Board since every Open Space Residential subdivision that was built over the past 30 years has resulted in properties being sold without proof of homeowner's fees being paid, despite the requirement and their ownership share of the open space being in the deed. This resulted in the open space land in some of the subdivisions being in Tax Title and remaining unpaid.

Atty. Nicosia proposed a possibility of creating an open space easement or conservation restriction. He added that he would work with Conservation Director Matt Marro to work out the details. There was additional discussion on the language in a potential decision including the deeds, and covenants. The Board was not comfortable issuing a decision tonight before reviewing the final revisions on all of the documents.

**C. DeCarteret:** Motion to continue this hearing until December 4, 2014

**S. O'Neill:** 2<sup>nd</sup> the motion

**In Favor:** 4 **Opposed:** 0 **Absent:** 1

**Passes:** 4-0-1

**7:55pm**      **347 Middlesex Rd. (M19, P9, L0)** – Site Plan and Major Business use Special Permit application for the proposed construction of a 7,000 s.f. retail/office building, and a 35,000 s.f. storage building with associated utilities. Continued from 11/6/14.

The applicant submitted a letter requesting a continuance to the next meeting in order to have additional time to make the necessary revisions on the plans.

**S. O'Neill:** Motion to continue this hearing to December 4, 2014

**K. O'Brien:** 2<sup>nd</sup> the motion

**In Favor:** 4 **Opposed:** 0 **Absent:** 1

**Passes:** 4-0-1

**7:58pm**      **Groton Rd. & Davis Rd. (M3, P14 & 14-1)** – Scott Connell, applicant, request for approval of a Definitive Subdivision Plan under the provisions of the Tyngsborough Subdivision Rules & Regulations for a nine lot residential development to be known as Heritage Hill. Continued from 11/6/14.

The applicant submitted a letter requesting a continuance to the next meeting in order to have additional time to make the necessary revisions on the plans.

**S. O'Neill:** Motion to continue this hearing to December 4, 2014

**K. O'Brien:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

### **ADMINISTRATIVE**

The October 2<sup>nd</sup> & 16<sup>th</sup> and November 20<sup>th</sup>, 2014 meeting minutes were pushed to the December 4, 2014 meeting for approval.

**8:00pm**

**S. O'Neill:** Motion to adjourn

**C. DeCarteret:** 2<sup>nd</sup> the motion

**In Favor: 4 Opposed: 0 Absent: 1**

**Passes: 4-0-1**

Minutes respectfully submitted by,  
Pamela Berman  
Planning Board Administrative Assistant